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09 AUG 2006

Sheridan Ross P.C.
1560 Broadway, Suite 1200
Denver, CO 80202-5141

In re Application of
BURSAUX et al. :
Application No.: 10/506,392 :
PCT No.: PCT/GB03/00932 : DECISION ON PETITION
Int. Filing Date: 06 March 2003 :
Priority Date: 12 March 2002 :
Atty. Docket No.: 7096SO-27 :
For: METHOD AND APPARATUS FOR :
DEPLOYING ARTICLES IN DEEP :
WATER :
:

This decision is in response to applicant's "37 CFR 1.182 Petition for Refund of a Three Month Extension of Time Fee Paid under 37 CFR 1.136" filed in the United States Patent and Trademark Office on 09 August 2005, which is being treated as a Petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 06 March 2003, applicant filed international application no. PCT/GB03/00932 which claimed a priority date of 12 March 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 12 September 2003. Pursuant to 37 CFR 1.495, the deadline for entry into the national stage in the United States expired 30 months from the priority date, on 12 September 2004.

On 01 September 2004, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*: the basic national fee; a copy of the international application; and a preliminary amendment.

On 14 January 2005, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 14 June 2005, applicants filed a declaration of inventors; a \$130 surcharge under 37 CFR 1.492(h); and a petition fee for a three-month extension of time.

On 09 August 2005, applicant filed the present "Petition for Refund of a Three Month Extension of Time Fee Paid under 37 CFR 1.136."

On 12 September 2005, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.494 OR 1.495" (Form PCT/DO/EO/903) which set forth a 35 U.S.C. 371 completion date of 14 June 2005.

DISCUSSION

A. Petition under 37 CFR 1.181

Petitioner states in their present petition that the Notification of Missing Requirements was not received by mail. This statement is being treated as a Petition under 37 CFR 1.181. With regards to applicants' request, a proper showing in order to establish that papers were not received as set forth in the Official Gazette at 1156 OG 53 must include the following: (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement attesting that a search of the file jacket and docket records indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received (the docket record must also be referenced in practitioner's statement).

Concerning item (2) above, applicants have not provided a statement attesting that a search of the file jacket and docket records indicates that the papers were not received.

As to item (3), applicants have provided a copy of the docket record which purportedly shows where the paper would have been entered had it been received. Accordingly, applicants are required to provide docket records for 14 March 2005, indicating all applications for which a response was due on said date.

Thus, applicants have not provided the proper showing necessary to withdraw the holding of abandonment and the petition may not be properly granted.

B. Request for Refund

Applicant's request for refund under 37 CFR 1.26 is being held in abeyance pending applicants' response to this decision.

CONCLUSION

The petition under 37 CFR 1.181 is **DISMISSED** without prejudice.

The request for refund under 37 CFR 1.26 is held in abeyance.

If reconsideration on the merits of this petition is desired, an appropriate response to this decision must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under

37 CFR 1.181 and Request for Refund." Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459